THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.27009 of 2005

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Dated:20.12.2005

Between:

Mohd.Khavi, s/o Mohd.Dastageer,
R/o Gadwal, Mahabubnagar District.

..... PETITIONER

AND

The State of Andhra Pradesh, represented by its Chief Secretary,

Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.27009 of 2005

ORDER:

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The petitioner is the owner of Saw Mill in the name and style of M/s.Royal Saw Mill, situated at Ganjipet Road, Gadwal, Mahabubnagar District. He obtained a Saw Mill licence as per Rule 4(2) of the Andhra Pradesh Saw Mills (Regulation) Rules, 1969 (hereafter called 'the Rules'). The third respondent herein granted licence in Form-II of the Rules. The same was valid up to 31.12.2003. After that, year after year, the licence was renewed up to 31.12.2005.

While the licence is still valid, the third respondent issued a show cause notice on 08.08.2005, requiring the petitioner to submit a reply as to why the licence should not be cancelled in accordance with the orders of the Supreme Court of India in W.P. (C).No.202 of 1995, dated 15.11.2002. The petitioner submitted the explanation through his Counsel, and after considering the same, the third respondent cancelled the licence, and further advised the petitioner to submit fresh application for establishment of Saw Mill, so that the same can be forwarded to the empowered committee for consideration. Assailing the proceedings of the third respondent,

whereby and whereunder the licence is cancelled, the present writ petition is filed.

The learned Counsel for the petitioner, Sri V.S.N.Sarma, vehemently contends that the third respondent granted licence to the petitioner after the Supreme Court pronounced orders in W.P.(C).No.202 of 1995, and therefore, the same has no application insofar as licence of the petitioner's Saw Mill is concerned. **Per contra,** the learned Assistant Government Pleader for Forests relies on the directions issued by the Supreme Court in its order dated 12.11.2002 and submits that the petitioner was granted licence on 02.08.2003 after the pronouncement of the judgment, and that by the time the third respondent could initiate action there was some delay in getting advice. After getting proper advice, the licence was cancelled and that as and when the petitioner makes an application, the same will be forwarded to the empowered committee.

In **T.N.Godavarman Thirumalpad v. Union of India** (W.P.(C).No.202 of 1995), the Supreme Court, *inter alia,* issued the following directions.

1) The ban imposed with regard to the opening of the new saw-mills and other wood-based industries by this Court's order dated 15th January, 1998 in the State of Nagaland is extended by a further period of five years.

2) The High Powered Committee is allowed to dispose of the assets on such defaulting units, including plants, machinery, land, shed, timber and timber products who have not paid the penalty imposed by the High Powered Committee of the wood-based units of north-eastern states. This will be subject to such orders, which may be passed by the Central Empowered Committee.

No state or Union Territory shall permit any unlicensed saw-mills, venner, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any saw-mills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance of this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrence of the Central Empowered Committee.

(emphasis supplied)

A plain reading of the above directions would show that the Supreme Court ordained every State Government and Union Territory to not to permit opening of any Saw Mills without permission of the Central Empowered Committee. The said order was passed on 12.11.2002. In this case, the third respondent granted licence to the petitioner on 02.08.2003. *Ex facie*, the licence granted to the petitioner is contrary to the directions issued by the Supreme Court. Therefore, the third respondent issued a notice and cancelled the licence. In doing so, the third respondent cannot be said to have committed any illegality warranting the exercise of power of judicial review. If any mandamus is issued as prayed for, it would amount to violating the directions issued by the Supreme Court which is not

permissible in law.

The learned Counsel for the petitioner strenuously pleads this Court to give liberty to approach the third respondent with a proper application for being forwarded to the Central Empowered Committee and upon such consideration, permitting the petitioner to run the Saw Mill. If the request is acceded to, again the same would amount to issuing an order in contravention of the directions of the Supreme Court, and this Court is not inclined to pass such order.

The petitioner is given liberty to make a fresh application to the third respondent for grant of Saw Mill licence immediately. As and when such application is made, the third respondent shall immediately forward the same to the empowered committee for consideration. The said committee may expeditiously consider the application of the petitioner and pass appropriate orders within a period of four weeks from the date of the proposals from the third respondent.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

20.12.2005

Note: Issue C.C by tomorrow.

B/o.

vs